

FREQUENTLY ASKED QUESTIONS – REASONABLE MODIFICATIONS – February 24, 2014

Subject	Comment/Question	Response
Benefit Changes	If new federal or state mandates necessitate a benefit change, please confirm that it is not necessary to file a reasonable modification.	Benefit changes due to federal or state mandates would not be considered reasonable modifications; therefore, it would not be necessary to file a reasonable modification.
Benefit Changes	If a change in an existing plan's benefit is included in the Reasonable Modification filing, please confirm that there will be an opportunity to modify that change in the 5.15.14 form filing.	If the company submits a Reasonable Modification request and the Division determines it to be reasonable, then the plan must be modified in the rate and form filing on 5/15. The only modifications allowed will be those approved by the Division; carrier cannot "modify" an approved reasonable modification in the 5/15 filings. A note regarding the Reasonable Modification must be included in the Colorado Actuarial Memorandum.
Benefit Changes	Please include that mandated changes such as modifications to plans for Federal Mental Health Parity do not need to be included in the Reasonable Modification filing.	<p>We have added the following language to the instructions titled "Reasonable Modification filing procedures for 2014 for Colorado":</p> <p><i>Please note: Federal or state mandated benefits, required by law, should not be submitted as reasonable modifications. However, a form filing and, if appropriate, a rate filing are required to be submitted.</i></p>
Benefit Changes	Prior to January 1, it was identified that the exclusion of transgender benefits was discriminatory and therefore, all plans were going to cover this benefit for 2014. Is it correct to assume that this would NOT require a Reasonable Modification filing?	Carriers cannot exclude, limit coverage or charge a higher rate pursuant to CRS 10-31104(1)(f)(III), (VI), VII), (VIII) and (XIII). Carriers making modifications to plans to comply with federal and state law involving sexual orientation would not be required to do a reasonable modification filing.
Cost Sharing Changes	The carrier must increase cost sharing (e.g., increase deductible, increase copays, increase out of pocket maximum) in order to make the AV compliant with the 2015 AV calculator. Are these sorts of benefit changes required to be filed as a reasonable modification, or should the changes only be submitted as part of the binder, rate, and form filings due May 15?	In order to make a plan's AV compliant with the 2015 calendar, the Division will ONLY allow carriers to make adjustments to the out-of-pocket maximum (OOPM). Changes to other cost-sharing measures (deductibles, copays, or coinsurance amounts) will be considered new plan designs, which will require the filing of a new plan on 5/15.

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Cost Sharing Changes	Does any cost sharing change to any benefit require going through the reasonable modification process?	For reasonable modification filings, the Division will ONLY allow carriers to make adjustments to the out-of-pocket maximum (OOPM). Changes to other cost-sharing measures (deductibles, copays, or coinsurance amounts) will be considered new plan designs, which will require the filing of a new plan on 5/15.
Cost Sharing Changes	Suppose a carrier does not want to change benefits, but the new 2015 AV calculator indicates that the plan is no longer within the de minimus range. Cost sharing must therefore be changed to get back into the range. Does a change made for this reason trigger the reasonable modification process?	To bring plans into compliance with the 2015 AV calculator, the only cost-sharing adjustments carriers will be allowed to make through the reasonable modification process are adjustments to the OOPM. Changes to other cost-sharing measures (deductibles, copays, or coinsurance amounts) will be considered new plan designs, which will require the filing of a new plan on 5/15.
Cost Sharing Changes	The proposed changes to the 2015 AV calculator require carriers to enrich the plans via a reduction in deductible, copay, coinsurance, and/or out of pocket maximum. There is less overall disruption if the plan is shifted back into the AV tier range through adjustments to the out of pocket maximum, because it requires a small reduction than, for example, an adjustment to the plan deductible.	The Division agrees- the only adjustments that will be allowed to bring plans into compliance with the 2015 AV calculator are adjustments to the OOPM.
Cost Sharing Changes	We request clarification that the entry under potentially reasonable modifications regarding changes in deductibles or copays also applies to coinsurance.	The only cost-sharing adjustments carriers will be allowed to make through the reasonable modification process are adjustments to the OOPM. Changes to other cost-sharing measures (deductibles, copays, or coinsurance amounts) will be considered new plan designs, which will require the filing of a new plan on 5/15.
Cost Sharing Changes	In the Reasonable Modification instruction document, Guidelines for Determining “Reasonableness” (p. 3), the following are listed as potentially unreasonable modifications:– Removing a benefit– Reducing the dollar amount of the annual limitIt appears from Regulation 4-2-27 Section 5.B.2. that these two items may be the continuation of the list of changes deemed unreasonable	Removing a benefit would not be considered a reasonable modification for non-grandfathered or grandfathered plans. Annual limits apply only to non-EHB benefits or grandfathered plans.

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	<p>specifically for grandfathered plans. We request clarification on whether the above items are applicable only to grandfathered plans. If not, we request clarification on the entry “reducing the dollar amount of the annual limit”. We request that the DOI clarify that “reducing the dollar amount of the annual limit” does not refer to changes in the out of pocket maximum. If, however, the DOI intended “annual limit” to be synonymous with “out of pocket maximum”, AND if the DOI does not accept our comments under “AV Calculator” above, we recommend that reductions in the dollar amount of the out of pocket maximum be considered a potentially reasonable modification. Consumer research indicates that consumers value a plan with a lower out-of-pocket maximum, and we recommend that such reductions remain a viable way in which carriers can manage changes necessitated by amendments to the AV calculator while achieving the lower impact to member pricing.</p>	
Discontinuance	<p>On the topic of discontinuing (not modifying, but discontinuing) plans: There are federal rules (45 CFR §147.106) that allow carriers to discontinue a product, as long as the carrier notifies all enrollees, allows members to switch to any other plan on a guaranteed-issue basis (which of course members could do each year anyway), and acts uniformly with respect to all members without regard to claims experience or health status. Can you describe whether or not Colorado will follow this federal rule as-is or if there are more stringent state requirements for eliminating a product? Bulletin B-4.59 mentions that there is existing ability under CRS 10-16-201.5(1)(f) to discontinue products, but that section of law was repealed last year.</p>	<p>The reference to the previous discontinuance under CRS 10-16-201.5 is now found under 10-16-105.1. Colorado law or regulations won't change in the near future regarding current discontinuance policies and procedures. In the case of US Senators & Representatives, Colorado Senators and Representatives, consumer groups and others - the trend is towards more protection and notification is better than less. The Division of Insurance's primary goal is consumer protection and is all for what best protects consumers.</p>
Due Date of Reasonable Mods	<p>We suggest that the Department reviews the impact to rates due to reasonable modifications as part of the rate filing that is due May 15th</p>	<p>The due date for Reasonable Modification filings is March 14, 2014.</p>

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Due Date of Reasonable Mods	Please clarify that 3.15.14 is the actual deadline of the Reasonable Modification filing as referenced in the draft. During Wednesday's meeting, the date of 3.14.14 was mentioned. If a carrier chooses to submit filings on 3.15.14, please provide confirmation that those filings will be considered submitted by the Division's deadline.	The due date for Reasonable Modification filings is March 14, 2014.
Form Number Locations	If we are putting the form numbers in the form schedule tab that the modification affects, why do we have to state the form numbers again in the Cover Letter (5)?	The reason the form numbers are to be included in the cover letter is that the plan identification codes (HIOS 10-digit number) must also be included.
Form Schedule Tab	In the form schedule tab, are we required to attach the actual document?	The actual forms are not required to be loaded into the SERFF Form Schedule tab.
Form Schedule Tab	Do we have to fill out the reading level section?	The Readability Score is not required to be included on this type of filing.
Form Schedule Tab	Please clarify carriers are not required to file any forms (Certificates, Summary of Benefits, etc.) on 3.15.14. The specific documents included in the Reasonable Modification filing would be limited to a cover letter, side by side comparison, identification of the rate impact, and a copy of the member notification letter(s) as outlined in the draft checklist.	No forms (Certificates, Summary of Benefits, etc.) are required to be filed with the Reasonable Modification filing. Only the documents listed in the checklist are required to be included in the Reasonable Modification filing. Carriers are not required to file forms with the Reasonable Modification filing.
New Plans	If a carrier decides to file a new plan(s), please include that that is not considered a "Reasonable Modification" and therefore, the required filing deadline is 5.15.14.	It is the carrier's option whether they want to pursue the Reasonable Modification filing process to revise a benefit OR whether they want to submit a new plan. Submitting a new plan would not be considered a Reasonable Modification. In the past, we have had carriers that proposed modifications that the Division determined to be unreasonable. At that point, the Division advised the carrier that they could opt to design a new plan which included that benefit. Such filings would be due on 5/15.

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OOP Cost Sharing	On page 3 of the Draft Reasonable Modification filing procedures for 2015 for Colorado document, “reducing the dollar amount of the annual limit” is listed as a potentially unreasonable modification. Does this refer to a reduction in the maximum member out-of-pocket cost sharing, or is something else intended by this language?	This is referring to annual limit that can be imposed on non-EHB and grandfathered benefits, which are not subject to the ACA's prohibition against annual limits on EHBs.
Public Access	Please confirm the 3.15.14 filings will not become public.	Reasonable Modification filings will be public upon receipt through SERFF. Carriers may request "confidential" handling of appropriate portions of the filing. A filing must include a "Confidentiality Index" per Colorado Bulletin B-1.15.
Ranges of Rates in Reasonable Mods requests	Can we submit ranges (as a % of premium) for changes in benefits only (without considering the impact of single risk pool and other rating considerations) as a gauge of what the final impact could be as a result of reasonable modification changes only.	No - as benefit changes are not permitted through the reasonable modification process. The only changes that will be allowed are adjustments to the OOPM to bring plans into compliance with the 2015 AV calculator.
Ranges of Rates in Reasonable Mods requests	Since the RATE filing isn't due until MAY 15th, what would you accept within the 3rd column {Amount of rating impact for each proposed change} of the Reasonable Modifications submission? Since it is due a full 2 months ahead of the RATE filing, we may not be certain at that time of rating impact.	The Division has decided that we can accept the rating impact based on the 2014 plan rates and not the 2015 plan rates because the AV Calculator has not been finalized or released at this point. So, IF the reasonable modification had been added to the 2014 plan, what would the rating impact have been? We understand that the rating impact, based on the 2015 plans, may be different when the 2015 rate filing is submitted. There should be a paragraph in the Actuarial Memorandum that discusses the reasonable modifications made to the plan and compares the rating impact that was submitted with the reasonable modification filing and the actual rate filing.

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Rate Changes across plans	<p>The reasonable modification instructions request the rating impact for each proposed change. While this was sensible in the past, it is not realistic to provide that information anymore in advance of actually doing the full pricing for all products. Under the single risk pool requirement of the ACA, projected claim costs for all individual market plans must be combined. Plan-specific factors can only account for a limited number of things, notably excluding demographic mix and morbidity differences between plans. Those differences obviously do exist in reality, which means that the rating impact of a benefit change in one plan ends up being spread across all plans in the risk pool. In short, it's no longer a relevant question to ask how a benefit design change in Plan X affects specifically Plan X. Those changes affect Plans Y and Z, and changes in Plans Y and Z affect the rates for Plan X. As of March 15, carriers won't even necessarily know the full set of plans they will be offering for 2015.</p>	<p>Benefit changes will not be allowed as part of the reasonable modification process. The only changes that will be allowed are adjustments to the OOPM to bring plans into compliance with the 2015 AV calculator.</p>
Rate Changes across plans	<p>If a reasonable modification request is filed and approved, please confirm that the Division will not go back later and require changes to the benefit design. We understand that a form filing is still needed for 2015, but we want to make sure that if a plan was OK'd for 2014 and a reasonable modification is OK'd for 2015 on 4/14/2014, that we can proceed to price that plan and not have to worry about the benefit design being later deemed discriminatory or otherwise unacceptable.</p>	<p>The Division will provide information up front on what is considered to be a discriminatory plan design. This information will be made available shortly.</p>

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Rate Changes inside AV Calculator tiers	The procedures document calls an “actuarial value change” a “potentially unreasonable” modification. We would recommend changing this to say that a metal level change is potentially unreasonable. Because the AV calculator is revised, it is almost certain that every plan in the state will have a change in actuarial value. In other words, please confirm that you are only concerned about changes outside of the de minimus range.	The Division appreciates the distinction between an "actuarial value change" (which would imply any change, regardless of whether it is in the de minimis range), and a change in metal level (which involves a change that takes a plan outside of the de minimis range). To confirm, the Division would only consider changes in metal level - or those that fall outside of the de minimis range - as unreasonable modifications.
Reasonable Mods	We recommend that plan changes made to comply with the federal HHS Annual Notice of Benefit and Payment Parameters or other federal or state requirements, including changes necessitated due to changes in the AV Calculator, fall outside of the reasonable modification process. These changes would be required in order to be compliant with updated regulatory standards affecting existing plans. We agree that forms and rates in connection with plans requiring these changes would continue to be subject to Colorado’s regular form and rate filing process, including filings to amend the schedule of benefits. Such changes would be to retain the plan within its current metal tier.	Benefit changes due to federal or state mandates would not be considered reasonable modifications; therefore, it would not be necessary to file a reasonable modification. In order to make a plan's AV compliant with the 2015 calendar, the Division will ONLY allow carriers to make adjustments to the OOPM. Changes to other cost-sharing measures (deductibles, copays, coinsurance amounts) will be considered new plan designs, which will require the filing of a new plan on 5/15.
Reasonable Mods request for on and off exchange	Please confirm the scope of the documents. Please confirm this Reasonable Modification filing process would be required for both on and off Individual and Small Group exchange plans.	A Reasonable Modification filing is required for ALL health benefit plans, regardless of whether they are sold inside or outside of the Exchange.